

Genevieve Morelli

Vice President & General Counsel

ORIGINAL

DOCKET FILE COPY ORIGINAL

June 25, 1996

William F. Caton
Acting Secretary
Federal Communications Commission
1919 M St., N.W.
Room 222
Washington, D.C. 20554

Re: CC Docket No. 96-98
Ex Parte Communication

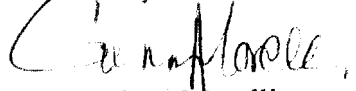
Dear Mr. Caton:

On June 25, 1996, Genevieve Morelli, James Smith and Joseph Gillan, representing the Competitive Telecommunications Association ("CompTel"), met with John Nakahata of Chairman Hundt's office; and Suzanne Tetreault, Aliza Katz and Sharon Diskin of the Office of General Counsel, to discuss CompTel's comments and reply comments in the above-captioned proceeding.

The attached brief outlines of CompTel's presentations were used during these meetings.

Please address any questions concerning this letter to the undersigned.

Sincerely,


Genevieve Morelli

cc: Suzanne Tetreault
Aliza Katz
Sharon Diskin

**Rapid, Ubiquitous Local Entry Requires the
Immediate, Practical Unbundling of the
Basic Elements of the Exchange Network**

- I. The central intent of the Telecommunications Act of 1996 is to effect a rapid move to a fully competitive telecommunications industry
- II. Rapid entry requires that the incumbent network be made available in a form that enables competitors to freely combine (and ultimately substitute) components to form their own exchange networks.
 - * Even USTA recognizes that the incumbent LEC network is "... the backbone network, upon which this country depends now and will depend for some time to come ..."¹
- III. Initial efforts should be concentrated on accomplishing a *first-level* unbundling -- including the development of operational support systems designed for parity with the PIC-change process that the RBOCs will use to enter the long distance market -- that provides a *working* foundation for full service competition.
- IV. Although the list of unbundled network elements will grow with time, the immediate goal must be a basic set of elements, priced correctly, that can be easily used to provide local exchange and exchange access services:
 - A. Physical Elements
 - 1. Local Loop
 - 2. Local Switching
 - 3. Transport and Termination
 - B. Supporting Elements
 - 1. Signalling
 - 2. Logical Elements (AIN Interconnection)
 - 3. Operational Systems

¹ USA Reply Comments, page ii.

V. The single most important element to efficiently entering the local market on a broad scale is an unbundled local switching element that provides its purchaser the ability to:

- * become the end-user's local exchange carrier on equal terms to the incumbent, without a loss in functionality or change in phone number.
- * activate any vertical function resident within the local switch to the purchasing carrier's end-user lines (such as the functionality to provide call waiting, call forwarding, multi-line hunting, etc...).
- * designate particular networks for the termination of various categories of traffic (for instance, directory assistance and operator services).
- * accurately bill its end-users for local exchange services and other carriers for exchange access/interconnection services.

Only with these capabilities can local switching be said to be: "*... unbundled from transport, local loop transmission, or other services.*"²

VI. Entry using unbundled local switching can accommodate large scale changes in customers (analogous to the PIC-changes) because physical rearrangements in the network are not needed to effect a change in the customer's service provider.

VII. The ability to combine network elements is critical for local competition to proceed in advance of network deployment and to promote the most competitive environment possible. Restricting network elements to carriers with "local" facilities would:

- A. Eliminate the usefulness of network elements except to that small fraction of the end-offices where an alternative network is deployed.
- B. Narrow competition to only those customers where significant network investment (including back-haul to remote switching locations) is economic.
- C. Embroil regulators in a constant litigation to determine what constitutes a "local" facility.

VIII. Combination-based entry will greatly accelerate the deployment of facilities by establishing a base of carriers poised to substitute network components through self-supply or obtained from other entrants.

IX. The rapid introduction of full competition will set the stage for interLATA relief consistent with the public interest.

² Section 271(c)(2)(B)(iv)

**Service Resale Requires Wholesale Pricing,
and Operational Support Equal to that Provided the ILEC's Own Retail Services;
But, in the Final Analysis, Its Viability Will Depend Upon Access Reform.**

- I. The differential between the wholesale and retail local service rates should fully reflect all retail-related costs. These costs would, in the long run, be avoided. Retail-related costs include:
- * Costs in account categories (such as product management, sales, advertising, and customer services) that are specific to retail-related functions.
 - * A portion of the costs in other account categories (such as corporate operations) which contain costs that are both retail-related and non-retail-related, but where the retail-related costs are not separately identified.³
- The avoided cost calculation must consider both the retail-related costs that are directly identified, and an estimate of the costs in other categories that are retail in nature, but are not separately identified as such.
- II. Operational support systems for ordering, provisioning, billing and maintenance should be the same as the systems used by the incumbent's retail operations.
- III. There should be a wholesale equivalent to each and every retail local exchange service.
- * Wholesale pricing should apply to all promotions and discount plans available to retail subscribers.
 - * New wholesale services should be offered simultaneously with any new retail service.
 - * Retail services may not be withdrawn to avoid the wholesale service obligation without the express permission of the state public utility commission.

³ The costs in these accounting categories are commonly referred to as "overheads".

IV. The only acceptable resale restrictions on wholesale services are limitations that apply to:

- * residential services that are priced below cost.
- * lifeline services that are specifically intended to benefit a targeted class.
- * services that are grandfathered.

In these instances, it would be acceptable to restrict the resale of the wholesale service solely to customers that qualify for the incumbent LEC's retail service.

V. A single wholesale factor should be used to develop wholesale rates, unless a specific cost-analysis conclusively demonstrates that a different avoided-cost factor should apply.

VI. The continued above-cost pricing of access will frustrate the development of a local resale market.

- * Local resellers become the customer's retail provider, but the underlying carrier continues to provide access service to/from the subscriber.
- * Where access is overpriced, the reseller attracts and supports the customer, while the incumbent LEC retains the profit.

**The Commission Should Interpret the Statute to Set the
Stage for a Comprehensive Reform of Carrier Pricing**

- I. There is broad consensus that the end-point of the new Act *should be* a system of carrier-to-carrier charges that are indifferent to the identity of the traffic and carrier.

USTA: Ultimately, the 1996 Act contemplates a competitive endpoint where the pricing of local interconnection is not dependent upon the identity of the interconnecting entity, e.g. an IXC, a CAP, a CLEC, a CMRS provider or an information service provider. (Comments, page 3).

GTE: ... assessing different charges based on the identity of the interconnecting party is not enforceable or sustainable in the long run. (Reply, page 39).

SBC: ... the Commission's stated goal of obtaining in the future equivalent pricing for functionally equivalent services (i.e., "minute is a minute" pricing) is both important and achievable. (Comment, page 59).

US West: In the long term, interstate access and Section 251 interconnection must be totally harmonized, if not merged. (Comment, page 61).

- II. Interpreting the Act to exclude access, however, will permanently foreclose the preferred outcome which the parties support. If access is excluded from Section 251, then each form of interconnection would be subject to different jurisdictions, regulatory frameworks and pricing standards, with no possibility of reconciliation:

	Interconnection	Interstate Access	Intrastate Access
Jurisdiction	FCC Rules with State Implementation	Federal	State
Geographic Application	State	RBOC Holding Company	State
Pricing Framework	Based on cost without reference to rate of return regulation.	Price Caps based on Part 36 cost allocations.	Varies, including statutory price cap plans where PSC retains no pricing authority.

- III. The non-discriminatory endpoint envisioned by USTA, CompTel and others is possible *only if* the FCC *first reads* the statute to encompass all forms of interconnection -- including interexchange access -- so that a consistent regulatory framework will apply.
- IV. Adopting the appropriate statutory framework *does not* require that access charges immediately fall to cost.
- * The FCC may waive the immediate application of the Section 251/252 pricing rules to interexchange access to provide the time necessary to implement a transition plan.
 - * Entry can proceed using unbundled network elements (and combinations of unbundled network elements) with the LEC receiving full compensation for network elements based on unseparated, economic cost.
 - * The incumbent LEC and new entrants would assess access charges on the traffic to/from their subscribers, either over the carrier's owned facilities or network elements purchased from the LEC (or both).
 - * The Commission could then integrate the full implementation of Section 251/252 (including its application to access) with its universal service proceeding to effect any transition that is necessary.
- V. The Commission should explicitly reject any carrier-to-carrier pricing system that is dependent upon retail labels.
- * Establishing a carrier-to-carrier pricing distinction based on the incumbent LEC's local calling boundaries leaves the dominant (initially, monopoly) service provider in charge of this critical service dimension.
 - * The line between toll and local service is becoming increasingly blurred and arbitrary. Many LECs have introduced "expanded calling" plans that are priced on a toll-like basis (per call or per minute), but at rates below access charges.
 - * Efforts to sustain arbitrary pricing differentials through reporting and auditing systems are inefficient, costly to implement, and designed solely to enforce an unreasonable result: the continued discrimination between "toll" and "local" traffic.
 - * Full competition, with complete freedom to design local and long distance services, requires non-discriminatory access to the exchange network.